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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

BRENDAN NASBY,

Plaintiff,

v.

STATE OF NEVADA, *et al.*,

Defendants.

3:17-cv-00447-MMD-CLB

**REPORT AND RECOMMENDATION
OF U.S. MAGISTRATE JUDGE¹**

This case involves a civil rights action filed by Plaintiff Brendan Nasby, ("Nasby"), against Defendants Renee Baker ("Baker"), Debra Brooks ("Brooks"), Harold Byrne ("H. Byrne"), Quentin Byrne ("Q. Byrne"), Tara Carpenter ("Carpenter"), James Cox ("Cox"), Adam Endel ("Endel"), Robert LeGrand ("LeGrand"), E.K. McDaniel ("McDaniel"), William Sandie ("Sandie") and the State of Nevada *ex. rel.* the Nevada Department of Corrections ("NDOC") (collectively referred to as "Defendants"). Currently pending before the court are Defendants' two motions to dismiss unserved defendants. (ECF Nos. 91 and 93). Defendants' two motions are unopposed. Having thoroughly reviewed the record and papers, the court recommends Defendants' two motions to dismiss (ECF Nos. 91 and 93) be granted.

I. BACKGROUND AND PROCEDURAL HISTORY

On March 5, 2019, the Court filed a notice of intent to dismiss unserved Defendant Howard Skolnik ("Skolnik") pursuant to Fed. R. Civ. P. 4(m) if Nasby failed to properly serve Skolnik by April 4, 2019. Nasby requested an extension of time (ECF No. 35) which the court granted, giving Nasby until May 3, 2019 to effectuate service on Skolnik. (ECF No. 37). Further, On September 27, 2019, the Court instructed Nasby to

¹ This Report and Recommendation is made to the Honorable Miranda M. Du, United States District Judge. The action was referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and LR IB 1-4.

1 complete service on Defendants Michael Fletcher ("Fletcher") and Adam Watson
2 ("Watson") by delivering USM-285 forms sufficient to effectuate service to the U.S.
3 Marshal by October 16, 2019. (ECF No. 59). However, Nasby has still failed to
4 effectuate service on defendants Fletcher, Skolnik, and Watson despite the filing of
5 Defendants' two motions to dismiss those unserved defendants in April 2020. (See
6 ECF Nos. 91 and 93). Accordingly, the court recommends Defendants' two motions to
7 dismiss the unserved defendants (ECF Nos. 91 and 93) be **GRANTED** and defendants
8 Fletcher, Skolnik, and Watson be **DISMISSED** from the action for failure to properly
9 effectuate service of process. See Fed.R.Civ.P. 4(m).

10 II. CONCLUSION

11 Based upon the foregoing, Defendants' motions to dismiss the unserved
12 defendants (ECF Nos. 91 and 93) should be granted and defendants Fletcher, Skolnik,
13 and Watson should be dismissed for failure to effectuate service of process. The parties
14 are advised:

15 1. Pursuant to 28 U.S.C. § 636(b)(1)(c) and Rule IB 3-2 of the Local Rules of
16 Practice, the parties may file specific written objections to this Report and
17 Recommendation within fourteen days of receipt. These objections should be entitled
18 "Objections to Magistrate Judge's Report and Recommendation" and should be
19 accompanied by points and authorities for consideration by the District Court.

20 2. This Report and Recommendation is not an appealable order and any
21 notice of appeal pursuant to Fed. R. App. P. 4(a)(1) should not be filed until entry of the
22 District Court's judgment.

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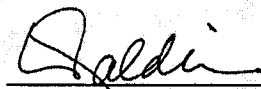
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1 **III. RECOMMENDATION**

2 **IT IS THEREFORE RECOMMENDED** that Defendants' two motions to dismiss
3 the unserved defendants (ECF Nos. 91 and 93) be **GRANTED**; and

4 **IT IS FURTHER RECOMMENDED** that defendants Fletcher, Skolnik, and Watson
5 be **DISMISSED** for failure to properly effectuate service of process.

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8 **DATED:** July 28, 2020.

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11 UNITED STATES MAGISTRATE JUDGE
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